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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/784,448

02/23/2004

Steven Joel Hammer

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7590

04/08/2005

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EXAMINER

CAPUTO, LISA M

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/784,448

Applicant(s)

HAMMER, STEVEN JOEL

Examiner

Lisa M. Caputo

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2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Acosta et al. (U.S. Patent No. 6,783,072, from hereinafter "Acosta").

Acosta teaches a combined data reader and electronic article surveillance (EAS) system. Regarding claims 1 and 9, Acosta teaches a checkout device and method comprising a barcode reader including a housing (scanner and scan housing 24) having an aperture (window 22) for emitting scanning light beams, a security system in the housing and adjacent the aperture for deactivating security labels on scanned items (EAS coil units 50a, 50b), and an optical element (lens system/window in barcode scanner) in the barcode reader for shifting the scanning light beams to an effective location above the aperture which includes shifting the scanning light beams to an effective location above the aperture for reading a barcode label on an item (see Figures 1-6, col 3 line 15 to col 4 line 55).

Regarding claim 3, Acosta further teaches that the barcode reader includes a plurality of pattern mirrors (pattern mirrors 53), wherein the security system (EAS coil units 50a, 50b) are above the scan mirrors and adjacent the aperture, and that the

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optical element (lens system/window in barcode scanner) is in the path of the scanning light beams for shifting the scan patter to an effective location above the aperture (see Figures 4-6, col 3, lines 45-67).

Further regarding claim 5, Acosta teaches that the pattern mirrors are designed to be located at a first distance away from the aperture and produce a first pattern, but are instead located at a second distance away from the aperture to accommodate installation of the security system in the housing and produce a second pattern, and an optical element (lens system/window in barcode scanner) in the path of the scanning light beams for shifting the second pattern to produce a third pattern which is about as effective as the first pattern when it is taught that FIGS. 4-6 illustrate the system 10 with portions of the housing removed to better illustrate the internal components. The system 10 includes a first laser module and collector assembly 58a disposed on one side of the unit producing a first laser beam directed onto one side of the polygon mirror 59 and a second laser beam and collector assembly 58b disposed on the other side of the unit from the first assembly 58a producing a first laser beam directed onto one side of the polygon mirror 59. The first and second reading beams are scanned by the polygon mirror 59 across pattern mirrors 53 in the lower housing section 20, usually reflecting off a first (primary) pattern mirror and then a second (secondary) mirror with some of the scan lines being formed by reflection off a third (tertiary) pattern mirror, and then all the scan lines being directed out through one of the windows 22, 42 projecting a complex scan pattern into the scan volume. Alternately, the only a single laser diode may be required generating a laser beam which is split by a beam splitter into a first and second

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reading beams, the first reading beam being directed onto the first side of the polygon mirror 59 and the second reading beam being directed onto the second side of the polygon mirror 59 (see Figures 4-6, col 3 lines 45-67).

Regarding claim 7, Acosta teaches a checkout device comprising a housing (housing 12), a barcode reader (scanner) in the housing, including pattern mirrors (mirrors 53) for producing scanning light beams, a weigh plate (weigh platter 30) above the housing, including an aperture for emitting the scanning light beams, an optical element (lens system/window in barcode scanner) in the path of the scanning light beams for shifting the scanning light beams, and a security system (EAS coil units 50a, 50b) beneath the weigh plate and adjacent the optical element in a location for facilitating scanning of items and deactivation of security labels on the items during a single swipe of the items over the weigh plate (see Figures 1-6, col 3 line 15 to col 4 line 55).

Regarding claims 2, 4, 6, and 8 Acosta teaches that the optical element comprises a glass block implemented by the lower window 26 (see Figures 1-6, col 4, lines 46-55).

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Lisa M. Caputo*** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [lisa.caputo@uspto.gov].

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All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMC
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April 3, 2005


DIANE I. LEE
PRIMARY EXAMINER